

1 Adopt 2 Cal. Code Regs. Section 18702.5 as follows:

2 **18702.5. Public Identification of a Conflict of Interest for Section 87200 Filers.**

3 (a) Government Code section 87105 and this regulation apply when a public
4 official who holds an office specified in Government Code section 87200 has a financial
5 interest in a decision within the meaning of Government Code section 87100, and the
6 governmental decision relates to an agenda item which is noticed for a meeting subject to
7 the provisions of the Bagley-Keene Act (Government Code section 11120 et seq.) or the
8 Brown Act (Government Code section 54950 et seq.).

9 **(b) Content & Timing of Identification:** The public official shall, following the
10 announcement of the agenda item to be discussed or voted upon but before either the
11 discussion or vote commences, do all of the following:

12 (1) The public official shall publicly identify:

13 (A) Each type of economic interest held by the public official which is
14 involved in the decision (i.e. investment, business position, interest in real property,
15 personal financial effect, or the receipt or promise of income or gifts), and

16 (B) The following details identifying the economic interest(s):

17 (i) if an investment, the name of the business entity in which each
18 investment is held;

19 (ii) if a business position, a general description of the business activity
20 in which the business entity is engaged as well as the name of the business entity;

21 (iii) if real property, the address or another indication of the location of
22 the property, unless the property is the public official's principal or personal residence, in
23 which case, identification that the property is a residence;

1 (iv) if income or gifts, then identification of the source; and
2 (v) if personal financial effect, then identification of the expense,
3 liability, asset or income affected.

4 (2) **Form of Identification:** If the governmental decision is to be made during
5 an open session of a public meeting, the public identification shall be made orally and
6 shall be made part of the official public record.

7 (3) **Recusal/Leaving the Room:** The public official must recuse himself or
8 herself and leave the room after the identification required by subdivisions (b)(1) and
9 (b)(2) of this regulation is made. He or she shall not be counted toward achieving a
10 quorum while the item is discussed.

11 (c) **Special Rules for Closed Session:** If the governmental decision is made
12 during a closed session of a public meeting, [DECISION POINT 1: OPTION A: the
13 public identification may be made orally during the open session before the body goes
14 into closed session and shall be limited to a declaration that his or her recusal is because
15 of a conflict of interest under Government Code section 87100. The declaration shall be
16 made part of the official public record.] [OPTION B: then Government Code section
17 87105 and this regulation impose no public identification duties on the public official for
18 that closed session meeting.] The public official shall not be present when the decision is
19 considered in closed session or knowingly obtain or review a recording or any other non-
20 public information regarding the governmental decision.

21 (d) **Exceptions :**

22 (1) **Uncontested Matters:** The exception from leaving the room granted in
23 Government Code section 87105(a)(3) for a “matter [that] has been placed on the portion

1 of the agenda reserved for uncontested matters” shall mean agenda items on the consent
2 calendar. When the matter in which the public official has a financial interest is on the
3 consent calendar, the public official must comply with subdivisions (b)(1) and (b)(2) of
4 this regulation, and recuse himself or herself from discussing or voting on that matter, but
5 the public official is not required to leave the room during the consent calendar.

6 (2) **Absence:** If the public official is absent when the agenda item subject to
7 subdivision (a) of this regulation is considered, then Government Code section 87105 and
8 this regulation impose no public identification duties on the public official for that item at
9 that meeting.

10 (3) **Speaking as a Member of the Public Regarding an Applicable Personal**
11 **Interest:** When a personal interest found in 2 Cal. Code Regs. section 18702.4(b) is
12 present, a public official may speak as a member of the general public if he or she
13 complies with subdivisions (b)(1) and (b)(2) of this regulation, recuses himself or herself
14 from voting on the matter and leaves the dais to speak from the same area as the members
15 of the public. He or she may listen to the public discussion of the matter with the
16 members of the public to determine if he or she needs to speak on his or her personal
17 interest.

18 COMMENT: Nothing in the provisions of this regulation is intended to cause an agency
19 or public official to make any disclosure that would reveal the confidences of a closed
20 session or any other privileged information as contemplated by law including but not
21 limited to the recognized privileges found in 2 Cal. Code Regs. section 18740.

22 NOTE: Authority cited: Section 83112, Government Code.
23 Reference: Sections 87100, 87105, and 87200, Government Code.